



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 3, 2012

Ms. Sharon Alexander  
Associate General Counsel  
Texas Department of Transportation  
125 East 11th Street  
Austin, Texas 78701-2483

OR2012-15729

Dear Ms. Alexander:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 471408.

The Texas Department of Transportation (the "department") received a request for (1) applications for JR 017681 Transport Crew Chief 1, (2) interview stats code - 060 for the Kingsville Maintenance Office, and (3) applications and interviews for the Transport Crew chief 3 in the Robstown Maintenance Yard during a specified time period. You state some responsive information has been released to the requestor. You claim some of the submitted information is excepted from disclosure under section 552.122 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.<sup>1</sup>

Section 552.122 of the Government Code excepts from disclosure "a test item developed by a . . . governmental body[.]" Gov't Code § 552.122(b). In Open Records Decision No. 626 (1994), this office determined that the term "test item" in section 552.122 includes "any standard means by which an individual's or group's knowledge or ability in a particular area

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<sup>1</sup>We assume the "representative sample" of information submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

is evaluated,” but does not encompass evaluations of an employee’s overall job performance or suitability. *Id.* at 6. The question of whether specific information falls within the scope of section 552.122(b) must be determined on a case-by-case basis. *Id.* Traditionally, this office has applied section 552.122 where release of “test items” might compromise the effectiveness of future examinations. *Id.* at 4-5; *see also* Open Records Decision No. 118 (1976). Section 552.122 also protects the answers to test questions when the answers might reveal the questions themselves. *See* Attorney General Opinion JM-640 at 3 (1987); ORD 626 at 8.

You seek to withhold portions of the submitted information under section 552.122. You state the information at issue “involve[s] standards by which an individual’s stated knowledge or ability in a particular area is evaluated.” You also state “[t]he questions relate to the stated knowledge, skills, and abilities required for the position and do not focus on qualifications or experience unique to a particular applicant.” Further, you state the department “anticipates using these interview questions for future job vacancies of this kind.”

Having considered your arguments and reviewed the submitted information, we find the interview questions you have marked qualify as test items under section 552.122(b) of the Government Code. We also find the release of the preferred and actual answers you have marked would tend to reveal the questions themselves. Therefore, the department may withhold the information you have marked under section 552.122(b) of the Government Code.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/som

Ref: ID# 471408

Enc. Submitted documents

c: Requestor  
(w/o enclosures)